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OFFICE OF PETITIONS

In re Application of : DECISION GRANTING
Kaiser : PETITION
Application No. 09/903,255 :
Filed: July 11, 2001 :
Attorney Docket No. CM2388 :
:

This is a decision on the petition entitled, "PETITION IN RESPONSE TO NOTICE TO FILE MISSING PARTS," filed September 21, 2001, requesting, in effect, that a missing page of specification be accorded a July 11, 2001 filing date.

The application was filed on July 11, 2001. However, on August 27, 2001, the Office of Initial Patent Examination mailed a Notice To File Missing Parts of Nonprovisional Application (Notice) stating that the application had been accorded a filing date of July 11, 2001, but that page 1 appeared to have been omitted. In addition, the Notice required an oath or declaration and surcharge for its late filing.

In response, the present petition was filed wherein petitioner argues that page 1 was filed on July 11, 2001. In support, the petition is accompanied by a copy of applicant's return postcard which lists 13 pages of specification and abstract. The petition is further accompanied by a copy of the initial filing.

The copy of applicant's itemized postcard supplied on September 21, 2001 shows an Office bar code sticker affixed thereto which identifies (1) the application in numerical and in bar code format and most importantly, (2) the date of receipt. That date is July 11, 2001. Therefore, it serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this matter.

While the Notice is withdrawn in part with respect to the missing page of specification, **the Notice remains in effect with respect to the missing oath or declaration and the surcharge for its late filing**. To avoid abandonment, an oath or declaration and the surcharge must be filed no later than March 27, 2002 with appropriate extension fees.

The application will be returned to the Office of Initial Patent Examination to await receipt of the oath/declaration and surcharge and for further processing with a filing date of July 11, 2001, using the copy of page 1 supplied with the present petition.

Thereafter, the application will be forwarded to Examining Group 1700 for examination in due course with the presently accorded filing date of July 11, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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for Patent Examination Policy